

CA20A1  
L72  
-A22

3 1761 11526580 3

# affirmation

Ontario  
Human Rights  
CommissionVolume 3, Number 2,  
June 1982Published by The Ontario Human  
Rights Commission

## New Code

It has been announced in the Speech from the Throne that the new Ontario Human Rights Code (formerly Bill 7), which was passed in the legislature in December 1981, will be proclaimed as law in June. This date was chosen not only to provide an adequate lead time for preparing the necessary policies arising out of the new Code, but also to mark in a very special way the 20th Anniversary of the first Code. (See also Editorial, p. 3).

'One of the major accomplishments of the legislature,' the Speech said, 'was the passage of a comprehensive new Human Rights Code which, among other things, extends protection to the handicapped. It is the intention of the government to proclaim the legislation in June, to coincide with the twentieth anniversary of the passage of Ontario's original Human Rights Code, the first in Canada.'

## Supreme Court of Canada rules on age discrimination

Earlier this year, the Supreme Court of Canada, in a unanimous decision delivered by the Honourable Justice McIntyre, ruled on what has become known as 'The Etobicoke Firefighters' Case'.

The case was originally brought to the Ontario Human Rights Commission by Harold E. Hall and Vincent Gray who, having reached the age of 60, had to retire from the Etobicoke Fire Department because its regulations so provided. Professor Bruce Dunlop, sitting as a board of inquiry, had decided that this compulsory retirement amounted to a refusal to employ or to continue to employ, contrary to section 4(1)(b) of the *Ontario Human Rights Code*. He rejected the employer's defence that the compulsory retirement at age 60 constituted a *bona fide* occupational qualification and requirement for the position. The board ordered the reinstatement of the complainants, provided that they continued to possess the requisite physical and mental capacities to carry out their jobs. He ordered, as well, compensation for loss of earnings from the date of retirement to the date of reinstatement.

An appeal was thereupon taken by the respondent (the Borough of Etobicoke) to the divisional court which, by a majority decision, allowed the appeal, basing itself on a decision rendered by Professor R.S. McKay sitting as a board of inquiry in another case concerning the firefighters of the city of North Bay. Prof. McKay was satisfied that a regulation of age limitation, if imposed honestly, with sincere inten-

tion and generally supported by fact and reason based on the practical reality of the work-a-day world and of life, met the test of *bona fide*.

The question then was: Is there a sound reason for imposing an age limitation of 60 which can be so supported?

The burden, said the court, lay on the employer to prove that, in fact, compulsory retirement at 60 was a *bona fide* occupational qualification. Such a proof would have to be based on a balance of probabilities and 'must be related, in an objective sense, to the performance of the employment concerned, in that it is reasonably necessary to assure the efficient and economical performance of the job without endangering the employee, his fellow employees and the general public....'

'Faced with the uncertainty of the ageing process, an employer has ... two alternatives. He may establish a retirement age at 65 or over, in which case he would escape the charge of discrimination on the basis of age under the Code. On the other hand, he may, in certain types of employment, particularly in those affecting public safety such as airline pilots, train and bus drivers, police and firemen, consider that the risk of unpredictable individual human failure involved in continuing all

*proclaimed on*  
*20th anniversary of*  
*Ontario Human Rights*  
*Commission*

employees to age 65 may be such that an arbitrary retirement age may be justified for application to all employees.'

But was there, indeed, sufficient risk of employee failure in those over the mandatory retirement age to warrant the early retirement in the interests of safety of the employee, his fellow employees and the public at large?

The employer argued that firefighting was a dangerous occupation which required physical strength, stamina and alertness beyond most other occupations. It held that the arbitrary retirement age was therefore justified as a reasonable measure to assure the maintenance of adequate fire protection. Professor Dunlop considered the evidence presented to be largely 'impressionistic', which could not stand the test of measurement; on the other hand, the divisional court took a different view. In its opinion, compulsory retirement at age 60 was

a *bona fide* occupational qualification and requirement under the Code, and was, in this judgement, upheld by the Court of Appeal.

The Supreme Court of Canada disagreed. 'It would be unwise (said Justice McIntyre) to attempt to lay down any fixed rule covering the nature and sufficiency of the evidence required to justify a mandatory retirement below the age of 65.... I am by no means entirely certain what may be characterized as "scientific evidence". I am far from saying that in all cases some "scientific evidence" will be necessary. It seems to me, however, that in cases such as this, statistical and medical evidence based upon observation and research on the question of ageing, if not in all cases absolutely necessary, will certainly be more persuasive than the testimony of persons, albeit with great experience in firefighting, to the effect that

*continued on page 4*



John Horowitz/Miller Services

# The History of Human Rights Legislation in Ontario

The first human rights statute of the contemporary era was the *Ontario Racial Discrimination Act* of 1944, which prohibited publication, display or broadcast of anything indicating an intention to discriminate on the basis of "... race or creed."

The Act was designed to combat the once-prevalent 'whites only' signs, which were prominently displayed in shop windows, amusement arcades, beaches and other places of public resort. Although such signs have largely disappeared, the legislative proscription remains, for a section based on the 1944 Act will be found in most Canadian human rights legislation.

The 1944 *Ontario Racial Discrimination Act* was an important pioneering statute because, for the first time, a legislature had explicitly declared that racial and religious discrimination was antithetical to public policy, and from that time on, the judiciary could not simply subordinate human rights to commerce, contract or property. Its influence was confirmed in 1945 when Mr. Justice MacKay of the Ontario High Court cited the Ontario statute in striking down a racially discriminatory property covenant purporting to prohibit sale of land to "... Jews or persons of objectionable nationality." Since then, and despite occasional lapses, the courts have generally demonstrated greater sensitivity to the pervasive and invidious consequences of racial discrimination and, obversely, the corresponding importance of legislation attempting to secure human rights.

In 1950, the *Ontario Labour Relations Act* was amended to ban discriminatory clauses in collective agreements, and the *Conveyancing and Law of Property Act* declared restrictive covenants in the sale of land to be null and void.

In 1951, Ontario enacted the first *Fair Employment Practices Act* and the *Female Employees Fair Remuneration Act*. Three years later, a *Fair Accommodation Practices Act* was passed. Other provinces soon followed Ontario's lead, and this legislation was the prototype of contemporary human rights codes.

The principal defect of the early fair employment and accommodation legislation was the lack of full-time staff to administer and enforce it. While it was clearly an improvement upon the cruder quasi-criminal legislation (such as the *Saskatchewan Bill of Rights* and the *Ontario Racial Discrimination Act*), it still continued, as Professor Walter Tarnowsky has pointed out:

"... to place the whole emphasis of promoting human rights upon the individual who has suffered most, and who is therefore in the least advantageous position to help himself. It places the administrative machinery of the State at the disposal of the victim of discrimination, but it approaches the whole problem as if it was wholly his problem and his responsibility. The result is that very few complaints were made and little enforcement was achieved."



Dr. Louis Fine, first chairman of the Ontario Human Rights Commission



Dr. Daniel G. Hill, first full-time director of the Ontario Human Rights Commission

In 1958, the *Ontario Anti-Discrimination Commission Act* was passed. The commission had three functions: to advise the Minister of Labour in regard to the administration of the 1951 Acts and the 1954 Act, to recommend to the minister ways to improve the three Acts and to undertake an educational program to familiarize the public with the provisions of the three Acts.

Once again, it was Ontario which, in 1962, took the initiative of consolidating various anti-discrimination provisions into a comprehensive human rights code and providing full-time staff to administer it. A commission was created, charged with the duty "... to promote an understanding of, acceptance of and compliance with, this Act", and made ultimately responsible to a minister of the Crown, but fully independent in the day-to-day performance of its functions. Other provinces and the federal jurisdiction soon consolidated their legislation and also created human rights commissions to administer it.

The pioneering *Ontario Human Rights Code* of 1962 prohibited discrimination on grounds of race, creed, colour, nationality, ancestry or place of origin, in signs and notices, public accommodation, services and facilities, housing with more than six self-contained dwelling units, employment and trade union membership.

In 1966, the *Age Discrimination Act* was enacted. It was followed by the *Women's Equal Opportunity Act* in 1970. In 1972, the Code was further consolidated to include the provisions of these Acts.

## The Ontario Human Rights Code, 1981 — From Bill 7 to law

by Thea Herman

The new *Ontario Human Rights Code* was passed by the provincial legislature in December 1981. The most significant change brought about by the new Code is probably the protection of the handicapped — in services, contracts, housing, and employment — and appropriately, the Code will be the first piece of legislation to be printed in braille.

Also of interest is the fact that the drafters of the Code have tried to remove all vestiges of sexist language, so that the Code speaks of 'persons' or of 'he or she', 'his or her'. Once again, this is the first time this has been done in Ontario, and, hopefully, is a sign of things to come.

The Code, which was finally passed by the legislature, was not the same one that had been originally introduced

and passed at first and second reading. After second reading, the provisions of the Bill were considered by a legislative committee, which entertained submissions from groups and members of the public. The debate, both within the committee and outside, was intense and resulted in several changes to the Code.

Much of the controversy centred around the powers of Human Rights Officers to carry out their investigation of complaints. Under the old Code, officers may require the production of documents. Under the new Code, officers may only request production of documents, and if the request is refused, the commission has a choice — it may either apply for a warrant to obtain the documents or

*continued on page 4*

### ... Only a minority obsession



Photo Lionel Gayle

By Lionel Gayle

Only those who have grasped the horror of Hitler and the torture chambers, can help more firmly to ground the hope of freedom and dignity for all people, says Canon Borden Purcell, the new chairman of the Ontario Human Rights Commission.

Canon Purcell was speaking at the Scarborough Civic Centre, at the *Celebration of Humanity*, a service sponsored by the Consultative Committee of Religious Leaders on Race Relations.

Under the topic, *What We Mean By Human Rights and Why*, Canon Purcell observed that 'We are deceived if we place our trust in what appears on the surface as enthusiasm for human rights,' and pointed out that 'Serious commitment to human rights will always be a minority obsession.'

He drew attention to how excited we were about the new Charter of Rights and Freedoms to be entrenched in the new constitution, as well as to how pleased we were with Bill 7 — the new and expanded Human Rights Code to be proclaimed law in June 1982, when we celebrate the 20th anniversary of the Human Rights Code in Ontario.

However, said Canon Purcell, 'Governments may legislate laws and charters of Rights and Freedoms, but it is in our own attitudes and hearts

that the real change must take place. We, the people, must be dedicated to the cause of human rights in our own community, in our province, in our country and throughout the world.'

'The only devotion to human rights that can be trusted,' continued Canon Purcell, 'is a long-distance devotion that has pondered the bloody face of our century. Like Kurtz in Joseph Conrad's *Heart of Darkness*, it has cried, "The horror, the horror", he added.'

According to Canon Purcell, 'The human rights cause in the world is a hope that must be kept alive in spite of "the horror". Only those who have grasped the horror of Hitler, Stalin, the holocaust, the refugees, the torture chambers, the prisons, the murders, the rape, the horror of it all, can help more firmly to ground the hope of freedom and dignity for all people.'

He said that if the *What* of human rights is to be grounded in the public policy of Canada and Ontario, then the *Why* must be grounded in the religious beliefs of the Canadian people. 'That is why I am so pleased to share in this celebration of humanity sponsored by the religious leaders of this city,' Canon Purcell stated.

Reprinted from 'Contrast', March 19, 1982 with the permission of the author

Affirmation/Published quarterly by:  
The Ontario Human Rights Commission

Editorial Office  
80 Grosvenor Street  
Toronto, Ontario M7A 1A7

ISSN 0228-5800

Borden C. Purcell, Chairman

Editorial Board  
W. Gunther Plaut, editor  
Jill Armstrong  
George A. Brown  
J. William Preiner  
Toni Silberman  
Bhausaheb Ubale  
Catherine Wilbraham

## Editorials

### A proud record

In 1962, Ontario pioneered human rights legislation in Canada by consolidating all anti-discrimination acts passed in the legislature since 1944 into its first human rights code. At that time, the Minister of Labour said in the debate on the first reading of the Bill, 'The legislation now before us is, I believe, a major step forward in assuring everyone in this province an equal opportunity. . . . As time goes on and as new needs become apparent, our *Ontario Human Rights Code* will continue to keep pace with the requirements of the people of our province.' (Province of Ontario legislative debates December 14, 1961, page 413).

Now, 20 years later, a new Code is becoming law. It is indeed a banner day for the province, and the editors of *Affirmation* wish to give special credit to the members of the Ontario Human Rights Commission and staff who, in 1977, created *Life Together*, the commission's



report of human rights in Ontario. *Life Together* contained 99 recommendations for legislation derived from a series of briefs submitted by concerned citizens and other interest groups throughout Ontario. Many of these were incorporated into the new law.

The people of Ontario must be grateful that, after 20 years, a new leaf has been turned over and their human rights have been given new weight in our province. This commitment has been further reinforced by virtue of the fact that the new Code has primacy over other existing legislation.

### Commission lauds corporate support of rights for the disabled

Not content to allow the positive effects and educational benefits of the International Year of the Disabled wane, the Canadian Rehabilitation Council for the Disabled recently sponsored a national conference on employment of disabled persons, focusing on the theme 'Removing the Barriers'.

A wealth of extremely well-qualified speakers conducted sessions on: Imaginative Human Resource Planning for the 80s, Changing Public Attitudes, Who Are the Disabled?, The Myth of Unemployability, Architectural and Environmental Barriers, and Adaptations, to name a few.

The innovative program binder itself contained a profusion of resource and background information relating to the above sessions and provided a valuable 'What's What' of incentives, legislation, directory of Employment Information Services, and print and film bibliographies on the disabled.

Special commendation also goes to Imperial Oil for providing the financial resources necessary to publish the program binder. It is just such corporate support and commitment that the commission lauds in providing for, facilitating and upholding the rights of individuals to be free from discrimination.

California and the Anti-Defamation League are supporting a fund established entirely by private contributions, which will pay for information leading to the arrest and convictions of persons committing racially motivated acts of harassment, vandalism and violence.

At a press conference announcing the establishment of the fund, a procession of victims of racial and anti-semitic vandalism described incidents ranging from family homes being painted with swastikas to entire houses being virtually ruined by vandalism.

We put this matter on record just in case it might have some appeal in our province.

### Klan watch

*Klan Watch Intelligence* is a little news magazine published by the Southern Poverty Law Centre in Montgomery, Alabama. It reports regularly on the fight against racial intolerance, law suits, legislation and the like. One of its recent news items read as follows:

'An innovative and potentially very powerful way of attacking the spread of acts of racially motivated violence and intimidation is being tested now in the Los Angeles, California area.'

It goes on to report that the city officials in co-operation with leaders of the NAACP, the Inter-religious Council of Southern

# When the aged are treated like children

by W. Gunther Plaut

Some time in 1982 the United Nations will sponsor a World Assembly on Ageing. That is an ambitious undertaking and the growing proportion of Canadians who will be talked about at the session will follow the proceedings with more than average interest.

Committees in many countries are now at work in order to contribute to the planning. In Canada, a federal/provincial group is consulting with senior groups and is considering 96 recommendations which have been submitted for North American consideration.



I have read them and I am impressed. If only a portion would be carried out the aged in Canada would have a much more compatible environment in which to live and spend their last years. (Popular parlance has it, of course, that these are their 'declining years'. That is true for many, but certainly not for all. Plenty of older people meet their Maker in the fullness of their mental capacities and with an adequate modicum of physical strength.)

However, there are some items that I find missing. I see nothing amongst the recommendations about the human rights of the aged, especially their right not to be discriminated against in matters of employment. In Ontario (both under the current and proposed Codes), people over 65 are in this respect disenfranchised.

Further, these recommendations are singularly silent on the whole area of age discrimination by stereotyping. If the kinds of things that advertising media say about the aged would be said about ethnic minorities or women we would have a veritable storm on our hands. But the aged are freely portrayed as somewhat daffy; they usually act silly on TV sitcoms and behave like the proverbial old ladies in tennis shoes that comport themselves like certified fools.

Our ageing population deserves better. It needs a sense of dignity which was once supplied by a supportive culture and the norms of the Judeo-Christian ethic. No more. Old is ugly; young is beautiful. Old is useless; young is worthwhile by definition. Old fashioned used to be an accolade, now it has become a pejorative. The derogation of the aged is subtle and often subliminal, which makes it hard to combat. Here is an opportunity for tackling the issue on a world-wide basis.

Finally, we should take a good look at recommendation #1 of the draft, which stresses that 'the ageing should be included as participants in such planning and in the implementation.' Indeed they should, but as a matter of fact they generally are not, not even in Canada.

Of course, there are seniors' and pensioners' groups with various political and social philosophies who are being consulted and who through their conventions and resolutions are making their voices heard. But when it comes to legislation and to the nitty-gritty planning of the World Conference they are merely 'consultants'; the real work is done by civil servants who are under 65. For when the latter join the circle of the old they are no longer employed as civil servants.

Which is another way of saying that the aged are in fact treated like children. Legislation is being planned for them, not by them, except in a proximate fashion. They are very much like our native people: others make the laws that concern them — vide our new Constitution. It appears to me that no commission, civil service or otherwise, should plan legislation or advise international bodies unless a substantial portion of its membership is composed of the very people for whom the planning is being done. If the aged cannot be civil servants past the age of 65 let them be engaged on a contractual basis, but let them be more than mere advisers and consultants. Women would raise a row if legislative committees which are to consider matters concerning women would have them participate only on a consulting basis. The same is true for the aged. I don't want others to plan for me whether I decide to wear tennis shoes or not.

Dr. Plaut is vice-chairman of the commission and editor of *Affirmation*.

Reprinted from the *Globe and Mail*, December 10, 1981.

### Affirmation welcomes new commissioners

Dr. Harry Parrott brings a wealth of experience in public life to his new role as commissioner. He has been actively involved in provincial politics, community service groups and is a past president of the Oxford County Red Cross. He is also past campaign chairman of the Woodstock United Appeal. Dr. Parrott has recently resumed his professional dental practice in Woodstock, Ontario.

Mr. Gene Rheaume's appointment was announced just as we went to press. The new commissioner hails from Nepean and is the consultant to the Native Council of Canada, in Ottawa.

To both commissioners we extend our best wishes on their appointment, and look to years of fruitful work together.

# La Commission ontarienne des droits de la personne a 20 ans

par François Bergeron

**Il est inacceptable qu'un membre du gouvernement identifie les gens par leur origine ethnique et il est dégradant qu'il réfère à des femmes adultes comme étant des filles.**

C'est ce qu'a écrit le nouveau président de la Commission des Droits de l'Homme de l'Ontario, M. Borden Purcell, au Premier ministre du Canada, M. Trudeau, le 24 février, dans un télégramme par lequel il lui faisait part de l'extrême désappointement de la Commission au sujet des remarques attribuées récemment au Secrétaire d'État, M. Gérald Regan, concernant Mme Adrienne Clarkson.

Dans une entrevue au *Toronto Star*, M. Regan aurait critiqué le train de vie du gouvernement ontarien en mentionnant l'envoi d'une Chinoise ('Chinese girl') à Paris. Mme Clarkson prendra bientôt la direction de la délégation de l'Ontario à Paris. M. Regan affirme qu'il ne se souvenait plus du nom de la nouvelle déléguée de l'Ontario dans la capitale française et l'a qualifiée par son origine ethnique pour préciser sa pensée...

Cette intervention publique est la première du président de la Commission depuis son entrée en fonction, le 19 février dernier.

*L'Express* l'a rencontré cette semaine, dans son bureau de l'édifice MacDonald à Queen's Park.

Âgé de 53 ans, M. Borden Purcell, qui succède à Mme Dorothea Crittenden à la présidence de la Commission des Droits de l'Homme de l'Ontario, en était membre depuis 1978. Il est Canon (évêque) de la cathédrale anglicane Christ Church d'Ottawa depuis 1973.

Le Canon Purcell est marié et père de trois enfants. Si un poste à la Commission ontarienne exige de posséder un esprit de missionnaire, le nouveau président répond sans doute à ce critère, ayant participé à divers programmes d'aide de son église qui l'ont mené des quartiers pauvres de New-York jusque dans l'Arctique canadien.

## police de la pensée?

M. Purcell se rebiffe quand on compare la Commission des Droits de l'Homme de l'Ontario — qui aura 20 ans le 15 juin prochain, ce qui en fait la plus ancienne au pays — à une 'police de la pensée' du genre de celle imaginée par l'écrivain anglais George Orwell dans le grand classique 1984.

De telles accusations ont en effet été portées par plusieurs observateurs lors des débats parlementaires sur le projet de loi numéro sept qui étend la juridiction de la Commission aux cas de discrimination envers les handicapés, aux victimes de harcèlement sexuel et précise les pouvoirs de ses enquêteurs.

La référence à Orwell est attribuée à la journaliste et écrivain torontoise Barbara Amiel. Ironiquement, le

mandat de M. Purcell prend fin (mais il est renouvelable) précisément le 31 décembre 1984...

Le rôle de la Commission est cependant bel et bien celui d'un chien de garde et son autorité, reconnaît volontiers son président, est surtout morale.

Dans le cas qui nous occupe, l'existence d'une Commission des Droits de l'Homme et, évidemment, d'un Code (un ensemble de lois) des Droits de l'Homme, veut inciter les citoyens à éliminer le racisme, le sexism, ou autres attitudes discriminatoires malsaines, de leurs actions.

Le Secrétaire d'État fédéral, sans enfreindre aucune loi ici, a néanmoins dépassé les bornes fixées par la Commission ontarienne en qualifiant Adrienne Clarkson de 'Chinese girl'.

'M. Trudeau n'aimerait sans doute pas qu'on se réfère à lui comme un "French boy"', indique M. Purcell.

Notre Commission a toutefois aussi des pouvoirs — les mêmes depuis 20 ans, souligne le président. Quand la persuasion morale ne suffit plus, le recours aux tribunaux et l'imposition de sentences (des amendes ou des compensations aux victimes de discrimination) s'imposent.

## From Bill 7 to law continued from page 2

request the minister to appoint a board of inquiry to hear the case. The existing rights of officers to enter places other than dwellings and to question witnesses will be continued under the new Code.

A significant change was made with respect to the scope of 'age' discrimination. Bill 7 originally prohibited age discrimination for those between the ages of 18 and 65. The old Code covers 40-65 years of age only. The new Code, however, now prohibits discrimination for all those over 18 years of age, except in the area of employment, where the upper age limit of 65 has been maintained. The issue of mandatory retirement promises to be one for continuing debate; the Ontario Manpower Commission has been asked to study the implications of abolishing mandatory retirement in Ontario.

Another issue of controversy has been the exclusion of girls from certain amateur sports teams. The Ontario Court of Appeal has decided that it is not contrary to the old *Ontario Human Rights Code* to have boys-only sports teams. A provision has been added to the new Code which will strengthen this position — sports activities and organizations will be legally entitled to discriminate on the basis of sex. However, the Minister of Labour has announced his intention to appoint a task force to study the matter further, as opinion on both sides of the issue is strong.

Perhaps the most significant change that was made in the new Code is with respect to handicap. The new Code will provide that lack of access or amenities does not amount to a breach of the *Human Rights Code*.

Therefore, an employer is entitled to refuse to hire a paraplegic because

Environ quarante pour cent des cas de discrimination indue (indue, parce que toute 'discrimination' n'est pas nécessairement mauvaise) qui aboutissent devant la Commission ont trait aux relations raciales. L'un des dix commissaires ontariens, le Dr. Bhausaheb Ubale, est d'ailleurs spécialement chargé de ces questions.

La composition de la Commission tente d'ailleurs de refléter celle de notre société. Deux des dix commissaires parlent français couramment : le vice-président, le Rabbi Gunther Plaut, et Mme Marie Marchand de North Bay.

Un autre quarante pour cent des causes porte sur la discrimination sexuelle (surtout des femmes qui revendent des postes qui leur auraient été niés).

Avec l'entrée en vigueur de la Loi 7, le Code des Droits de l'Homme de l'Ontario "couvrira" désormais les handicapés et les victimes de harcèlement sexuel.

## Pas de quotas

Appelé à commenter la teneur d'une récente loi québécoise obligeant les compagnies de plus de 50 employés à embaucher trois pour cent de personnes handicapées, M. Purcell indique que le gouvernement ontarien n'est pas favorable à l'imposition de quotas au secteur privé.

there is no wheelchair access to the place of work. The employer is not, however, entitled to refuse to hire such a person because the employer does not believe that the handicapped person is capable of doing the job, when such is not the case.

In the same way, there is no obligation to make services (restaurants, movie theatres, etc.) or apartment buildings accessible to handicapped persons.

The Code, however, does give the commission the authority to recommend the provision of access or amenities for handicapped people. Also, if a board of inquiry decides that there has been discrimination on the basis of handicap, it can then examine the access or amenities issue and make an order that the person provide the necessary access or amenities (as long as the cost of doing so is not too great).

The above discussion merely highlights some of the more important changes which occurred to the new Code as a result of the legislative process. We will now have to wait until the new Code becomes law to see these and other changes in action.

*Thea Herman is the commission's legal counsel.*

## Supreme Court rules continued from page 1

firefighting is a young man's game. My review of the evidence leads me to agree with the board of inquiry. While the evidence given and the views expressed were, I am sure, honestly advanced, they were, in my view, properly described as impressionistic and were of sufficient weight. The Court therefore restored the judgement of the board of inquiry.

It finally dealt with one other matter. Could the collective agreement under which the firefighters operated, which

On ne peut donc pas parler d'action positive (la traduction du terme américain 'affirmative action') en Ontario, si ce n'est que pour les critères d'embauche que la fonction publique s'impose à elle-même.

M. Purcell est toutefois d'accord avec les objectifs sociaux des mesures d'action positive et il prône l'introduction de mesures d'incitation financière pour les atteindre.

Ainsi, il voudrait voir le gouvernement récompenser, par des diminutions de taxes ou des subventions, les entreprises qui embauchent des handicapés, ou qui donnent des chances égales aux femmes ou aux noirs, etc.

M. Purcell ne nie pas qu'il faudrait alors une bureaucratie beaucoup plus lourde pour évaluer toutes les demandes que de telles mesures produiraient... En fait, comme tout chef de service gouvernemental qui se respecte, il veut plus de personnel et des budgets plus importants!

L'expérience de ces politiques, dans les autres provinces et les autres pays enseigne aussi qu'en voulant régler de cette manière le problème(?) de la discrimination, on aboutit généralement à créer un réseau des privilégiés et d'injustices... sans parler du gaspillage des fonds publics.

Reprinted, with permission, from *L'Express de Toronto* - week of March 2-8, 1982.

## Welcome to the new minister



The 20th anniversary celebration of the *Ontario Human Rights Code* and the introduction of the new Code will take place under the auspices of the new Minister of Labour, the Hon. Russell H. Ramsay. No stranger to the business or political world, the minister brings years of experience and a well-qualified background to his new post.

The commission welcomes him, and looks forward to a co-operative and productive association.

specified retirement at age 60, be considered to waive their right to invoke the Code? Said the Court, 'The Human Rights Code has been enacted by the legislature of the Province of Ontario for the benefit of the community at large and of its individual members,' and therefore concluded that it 'may not be waived or varied by private contract.' In other words, the collective agreement could not set aside the provisions of the *Ontario Human Rights Code*.